REMARKS

STATUS SUMMARY

Claims 2, 3, 5, 9-11, 13, 33-36, and 41 are pending in the present application. The Examiner has rejected claims 2, 3, 5, 9-11, 13, 33-36, and 41 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,228,099 to *Dybbs* ("*Dybbs*").

These formal matters identified in the Office Action are addressed herein below.

RESPONSE TO CLAIM REJECTIONS UNDER 35 U.S.C. § 102(e)

Claims 2, 3, 5, 9-11, 13, 33-36, and 41 are rejected under 35 U.S.C. § 102(e) as being anticipated by *Dybbs*. Applicants respectfully traverse this rejection because *Dybbs* fails to teach each and every feature or element recited in the rejected claims.

The Examiner states that as to claims 2, 3, 5, 9-11, 13, 33-36, and 41 of the pending application, *Dybbs* discloses:

> Dybbs discloses a blade assembly that can be assembled into a microkeratome, including: a blade (98) has a cutting edge (102), a rear edge (see attached figure where all yellow mark is characterized as a rear edge), and a pair of side edges (occurs at either side of element 98), where a blade holder (96) that has a reference surface and is loaded into the inner cavity, and where the blade holder reference surface (106) is capable of pressing into and in contact with the rear edge of the blade and is capable of attaching the blade holder to the blade. *At best seen in fig. 4, Dybbs can clearly disclose engaging the blade 98 to the blade holder 96 via an opening 122 in the blade that receives the protrusion 120 in the blade holder as recited in claim 9, and* where the a blade holder has a slot that receives the pin (135), and where the rear edge has a plurality of fingers (occur at either side of element 102, *and where nothing is the specification can prevent that element 102 can be characterized as any fingers and that can be added as the cutting edge*), and where the blade holder is coupled to the blade by a frictional fit, and where the blade can pivot relative to the blade holder, and where the blade holder also has an outer groove (fig.4).

In a final Office action mailed April 17, 2006, the Examiner rejected claims 1-3, 5, 9-11, 13, and 33-36 under 35 U.S.C. § 102(e) as being anticipated by *Dybbs*. In response to this final Office action, on August 16, 2006, Applicants filed an amendment cancelling claim 1 and adding new independent claim 41. In rejecting claims 2, 3, 5, 9-11, 13, 33-36, and 41 under 35 U.S.C. § 102(e) as being anticipated by *Dybbs* in the present Office action, the basis for this current rejection is that paragraph of the Office action cited above, where that portion of the paragraph in italics is new material added to address Applicant's arguments made in the prior response.

Applicants respectfully submit that the revised basis for rejection does not address the limitations of the new independent claim 41, and moreover adds nothing substantial that would support the rejection of claims 2, 3, 5, 9-11, 13, 33-36, and 41 under 35 U.S.C. § 102(e). Accordingly, Applicants again respectfully traverse the rejection under 35 U.S.C. § 102(e) for the following reasons.

CLAIM 41

Claim 41 of the present application recites the following:

> A blade assembly that can be assembled into a microkeratome, the microkeratome having a pin, the blade assembly comprising:
> a blade that has a cutting edge, a rear edge, and a pair of side edges; and
> a blade holder that has a blade holder reference surface oriented so as to enable calibrating the blade to fix a distance between the blade holder reference surface and the cutting edge, the blade holder further having a slot to receive the microkeratome pin.

As to claim 41, *Dybbs* does not teach "a blade holder reference surface oriented so as to enable calibrating the blade to fix a distance between the blade holder reference surface and the

cutting edge." First, the Examiner has not indicated which elements of *Dybbs* allow it "to enable calibrating the blade to fix a distance between the blade holder reference surface and the cutting edge." Nothing in the basis for rejection references anything disclosed by *Dybbs* that enables this technique. Thus there is no basis for the rejection of claim 41 and its rejection is improper.

Second, *Dybbs* in general teaches a system and method of using a disposable microkeratome that facilitates the performance of corrective refractive ophthalmic surgery. Col. 4, lines 34-40. According to an embodiment of the invention, a method includes "selecting one of a plurality of microkeratomes which provide for depths of cut." Col. 3, lines 38-40. Referring to FIG. 14, *Dybbs* discloses how a blade gap distance 117 is formed, *i.e.*, it is the distance between the cutting edge 102 of the cutting blade 98 and the bottom surface of the sled 110 that determines the thickness of the flap cut from the cornea. Col. 8, line 65, through col. 9, line 2.

Nothing in *Dybbs*, however, teaches how this blade gap distance may be calibrated, *i.e.*, adjusted or set to a predetermined standard, as an example. That is, the elements shown in FIG. 14 of *Dybbs* are assembled, resulting in a single, fixed blade gap distance. In contrast, as an example, the specification discloses a stop that provides a datum point that controls the distance between a reference surface and the cutting edge of a blade, where this distance defines the cutting depth of the blade (*see* Specification, pg. 12, line 18, through pg. 13, line 1). As another example, the reference surface may abut against a clamp (*see* Specification, pg. 13, lines 9-14).

These are examples of fixing a distance between a blade holder reference surface and the cutting edge of a blade. *Dybbs* does not teach or disclose "calibrating the blade to fix a distance between the blade holder reference surface and the cutting edge," and therefore fails to teach each and every feature or element recited in the rejected claim 41.

CLAIM 9

Claim 9 of the present application recites the following:

> A blade assembly that can be assembled into an inner cavity of a microkeratome, the inner cavity having a reference surface, the microkeratome having a pin comprising:
> a blade that has a cutting edge, a rear edge, and a pair of side edges that extend between said cutting edge and said rear edge; and,
> a blade holder that has coupling means for coupling said rear edge of said blade to said blade holder, said blade holder having a slot that receives the microkeratome pin.

As to claim 9, as noted above, the Examiner has stated "[as] best seen in fig. 4, *Dybbs* can clearly disclose engaging the blade 98 to the blade holder 96 via an opening 122 in the blade that receives the protrusion 120 in the blade holder as recited in claim 9." Repeating what was stated in the prior Response, *Dybbs* does not teach "...coupling said *rear edge* of said blade to said blade holder." The so-called "edge" of the opening in the *Dybbs* blade is substantially different from the rear edge as recited in claim 9. The rear edge as recited in claim 9 may also have a notch (*see* Specification, pg. 9, lines 15-16) into which a blade holder may be pushed so that an edge of the notch may extend into an outer groove of the blade holder (*see* Specification, pg. 10, lines 10-14).

None of these features could be implemented utilizing the opening in the *Dybbs* blade. Thus, *Dybbs* does not teach a "coupling means for coupling said rear edge of said blade to said blade holder" and therefore fails to teach each and every feature or element recited in the rejected claim 9.

CLAIM 33

Claim 33 of the present application recites the following:

> A blade assembly that can be assembled into a medical device used to cut a cornea, comprising;
> a blade holder that has a plurality of slots; and,
> a blade that has a cutting edge, a rear edge, and a pair of side edges that extend between said cutting edge and said rear edge, said rear edge having a plurality of fingers that are pressed into said blade holder slots to secure said blade holder to said blade.

The Examiner states, in general, that *Dybbs* teaches a rear edge that has a plurality of fingers, referring to element 102, which is the cutting edge 102 of the cutting blade 102 (*see*, for example, col. 8, lines 62-64). The Examiner, however, does not identify where *Dybbs* teaches any blade holder slots for receiving the fingers as recited in independent claim 33 and as disclosed in the specification at page 11, lines 3-7. In addition, the Examiner now states that the plurality of fingers "can be added as the cutting edge."

That, however, is immaterial as claim 33 has as a limitation a "rear edge having a plurality of fingers that are pressed into said blade holder slots" where the rear edge is that of a blade also having a cutting edge and a pair of side edges. Thus, *Dybbs* does not teach a "rear edge having a plurality of fingers that are pressed into said blade holder slots" and therefore fails to teach each and every feature or element recited in the rejected claim 33.

Independent claims 41, 9, and 33 being in condition for allowance, dependent claims 2, 3, and 5; 10-13, 42 and 43; and 34-36 that depend directly or indirectly from allowable independent claims 41, 9, and 33, respectively, are also in condition for allowance for at least the same reasons.

CLAIM AMENDMENTS/NEW CLAIMS

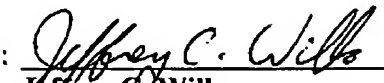
Amendments have been made to claim 11 and two new claims, 42 and 43, have been added. Support for claims 42 and 43 may be found, for example, at page 9, lines 13-16, page 11, lines 2-5, and elsewhere throughout the specification. Accordingly, no new matter has been added by these Amendments. Additionally, Applicants reserve the right to present the amended claims in their original form in one or more continuation applications.

CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that the present application is now in proper condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Official Action.

Respectfully submitted,
Rod Ross et al.

Dated: January 22, 2007 By: 

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